IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9392 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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KAILLASHNATH SHARDA (HUF) - Petitioner
Versus
AMBUJA INTERMEDIATES LTD - Respondent

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Appearance :
MR GT DAYANI for Petitioner.
MR SK BUKHARI for Respondent.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 20/11/2006

ORAL JUDGMENT

1. The petitioner – original defendant has filed this petition under Article 227 of the Constitution of India challenging the order passed by the learned Small Cause Court No. 4, Ahmedabad on 22.03.2005 in Summary Suit No. 2482 of 2004 granting permission to the petitioner – original defendant to defend the suit with a condition to deposit a sum of Rs. 1,20,000/- within twelve weeks from the date of the said order.

2. This Court has issued rule on 13.05.2005 and notice as to interim relief was issued. The Court has directed the petitioner – original defendant to deposit an amount of Rs. 1 Lac before the trial Court within a period of twelve weeks from the date of the said order.

3. Heard Mr. G.T. Dayani, learned advocate appearing for the petitioner – original defendant and Mr. S.K.

Bukhari, learned advocate appearing for the respondent – original plaintiff.

4. Mr. Dayani has submitted that pursuant to the order of this Court dated 13.05.2005, the petitioner has already deposited a sum of Rs. 1,00,000/- within the time granted by this Court. Mr. Bukhari, learned advocate appearing for the respondent has confirmed that the said amount has already been deposited and the present respondent – original plaintiff has already withdrawn the said amount.

5. In the above view of the matter, this Court is of the view that the interest of justice would better be served if the order dated 22.03.2005 passed by the learned Small Cause Court No. 4 in Summary Suit No. 2482 of 2004 is modified to the extent that leave to defend is granted to the petitioner – original defendant with a condition to deposit a sum of Rs.1 Lac instead of Rs. 1,20,000/-. Since an amount of Rs. 1 Lac has already been deposited by the petitioner, no further order is required to be passed in this

petition. Looking to the facts and circumstances of the case, the Small Cause Court is hereby directed to expedite the suit and try to see that the same may be disposed of as early as possible.

6. Subject to the aforesaid direction and modification, this petition is accordingly disposed of. Rule is made absolute to the aforesaid extent without any order as to costs.

[K.A. PUJ, J.]

S*avariya*.